91-1341

Supreme Court, U.S.
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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1991

THANH VONG HOAI, JOHN D. HEMENWAY, DAVID HEMENWAY
Petitioners,

THANH VAN VO, MILLARD F. OTTMAN, DAVID C. ROSEMAN, JONES, DAY, REAVIS & POGUE, J. GORDON FORESTER, JR., GEOFFREY WAGNER, JOSEPH ZULLI, SUN REFINING & MARKETING COMPANY, INC.
Respondents.

Appendix 4 to
Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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CONSTITUTION

AMENDMENT 1

Congress shall make no law ... abridging the freedom of speech, or of the press, or of the right of the people peacably to assemble, and to petition the government for a redress of grievances.

AMENDMENT 5

No person shall ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT 7

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

42 U.S.C. § 1981. Equal Rights Under the Law

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

42 U.S.C. § 1982. Property Rights of Citizens

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchsaee, lease,

sell, hold, and convey real and personal property.

42 U.S.C. § 1983. Civil action for deprivation of Rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U.S.C. § 1985. Conspiracy to interfere with civil rights

(2) Obstructing justice; intimidating party, witness or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully and truthfully, or to injure such party or witness in his person or property on account of his having so atended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being

or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enfore, the right of any person, or class of persons, to the equal protection of the laws.

(3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protec-tion of the laws, or of equal privileges and

immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, for giving his support of advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object

of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

DISTRICT OF COLUMBIA BAR CODE OF ETHICS ADOPTED BY THE DISTRICT OF COLUMBIA COURT OF APPEALS (in effect August, 1986)

* * *

DR 5-102

Withdrawal as Counsel When the Lawyer Becomes a Witness.

(A) If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that he or a lawyer in his firm ought to be called as a witness on behalf of his client, he shall withdraw from the conduct of the trial and his firm, if any, shall not continue representation in the trial except that he may continue the representation and he or a lawyer in his firm may testify in the circumstances enumerated in DR 5-101(B)(1) through (4).

(B) If, after undertaking employment in contemplated or pending litigation, a law-

yer learns or it is obvious that he or a lawyer in his firm may be called as a witness other than on behalf of his client, he may continue the representation until it is apparent that his testimony is or may be prejudicial to his client.

DR 5-101(B)

(1) if the testimony will relate solely to an uncontested matter

(2) if the testimony will relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony

(3) If the testimony will relate solely to the nature and value of legal services rendered in the case by the lawyer or his firm to the client

(4) As to any matter, if refusal would work a substantial hardship on the client because of the distinctive value of the

lawyer or his firm as counsel in the particular case.

SUPERIOR COURT OF D.C. - CIVIL RULES

RULE 12-I(b)

JUDGE IN CHAMBERS

The following matters may be presented for disposition to a Judge in Chambers designated by the Chief Judge, either ex parte or with opposing counsel, as appropriate; Appointment of a special process server; motions with respect to publication of notice requirements, judicial approval of settlements involving minors, approval of accounts, motions regarding security for costs, warrants and return of warrants, motions for temporary restraining orders writs of ne exeat, approval of subpoenas for administrative proceedings, orders involving execution upon attachment, and any other matters appropriate for such disposition.

SUPERIOR COURT OF S.C. - CIVIL RULES

RULE 65. INJUNCTIONS.

(a) PRELIMINARY INJUNCTION.

(1) NOTICE. No preliminary injunctiон shall be issued without notice to the adverse party.

(2) CONSOLIDATION OF HEARING WITH TRIAL ON MERITS. Before or after the com-mencement of the hearing of an applica-tion for a prelimiinary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidatin is not ordered, any evidence received, upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon the trial. This

subdivision (a)(2) shall be so con-strued and applied as to save to the part-ies any rights they may have to trial by jury.

(b) TEMPORARY RESTRAINING ORDER; NOTICE; HEARING; DURATION. A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if (a) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the Court finds that the applicant has made all reasonable efforts under teh circumstances to furnish to the adverse party's attorney, if known, otherwise to the adverse party, at the earliest practicable time prior to the hearing on the motion for such order (a) actual notice of the hearing and (b) copies of all pleadings and other papers filed to date in the

action or to be pre-sented to the Court at the hearing. Every temporary restraining order granted with-out notice shall be indorsed with the date and hour of issuance; shall be filed forthwith in the Clerk's Office and enter-ed of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 10 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the exten-sion shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a prelimin-ary injunction shall be set down for hear-ing at the earliest possible time and take precedence of all matters except

older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunctin and, if he does not do so, the Court shall dissolve the temporary restraining order. On 2 days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the Court may prscribe, the adverse party may appear and move its dissolution or modification and in that event the Court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(c) SECURITY. No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by

any party who is found to have been wrongfully enjoined or restrained. No such security shall be required of the United States or of the District of Columbia, or of an officer or agency of either.

The provisions of rule 65.1 apply to a surety upon a bond or undertaking under this rule.

(d) FORM AND SCOPE OF INJUNCTION OR RESTRAINING ORDER. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those pesons in active concert or participation with them who receive actual

notice of the order by personal service or otherwise.

(e) EMPLOYER AND EMPLOYEE. These rules do not modify any statute of the United States relating to temporary restraining orders and preliminary injunctions in actions affecting employer and employee.